

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY CARUSO, et al.,

No. C 12-05635 WHA

Plaintiffs,

v.

**SUA SPONTE ORDER STRIKING
AMENDMENTS TO COMPLAINT
FILED WITHOUT LEAVE**

FNB BANCORP, et al.,

Defendants.

A prior order granted in part and denied in part defendants' motion to dismiss and granted plaintiffs an opportunity to "seek leave to file an amended complaint by Noon on January 10, 2013, as to claims seeking quiet title and relief for violations of TILA/HOEPA" (Dkt. No. 21 at 11). The order further mandated that the "proposed amended complaint *must be appended to the motion* and plaintiffs must plead their best case. The *motion should clearly explain* how the amendment[s] to the complaint cure the deficiencies identified [t]herein" (*id.* at 11–12 (emphasis added)).

Plaintiffs violated that order. Rather than file a motion for leave to file a proposed amended complaint attached thereto, plaintiffs simply filed their amended complaint (Dkt. No. 24). Not only does plaintiffs amended complaint plead an amended claim to quiet title, plaintiffs — also without leave — have amended their claim for constructive fraud and their prayer for relief.

1 Accordingly, the following paragraphs of plaintiffs' amended complaint shall be
2 **STRICKEN** and disregarded: ¶¶ 48–50, 68–79, and ¶ 2 of the prayer for relief. The time for
3 amendments has now expired and no further amendments will be permitted.

4 Because the instant order restores the *status quo ante*, defendants' answer remains due by
5 **JANUARY 30 AT NOON.**

6
7 **IT IS SO ORDERED.**

8
9 Dated: January 16, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE